

STATE OF COLORADO

COLORADO DEPARTMENT OF HEALTH

Dedicated to protecting and improving the health and environment of the people of Colorado

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Roy Romer
Governor

Patricia A. Nolan, MD, MPH
Executive Director

Februayr 9, 1993

Mr. David Sell
c/o McMichael, Bender and Multz
1580 Lincoln Street, Suite 900
Denver, CO 90203

RE: Agreement and Stipulated Order
Rico Development Corporation
CDPS Permit No. CO-0029793
Dolores County, Colorado

Dear Mr. Sell:

Enclosed are two revised copies of the proposed Agreement and Stipulated Order for settlement of the Notice of Violation and Cease and Desist Order issued on May 18, 1993.

Please review the document. If you need to have any other corrections made, please contact me at (303) 692-3603 so we can discuss the changes. If you have no proposed changes, please sign BOTH copies and return both to me. I will then have Dave Holm sign both copies and will return an original to you.

Thank you for your cooperation in bringing this matter to conclusion.

Sincerely,

Anne Ihlenfeldt
Industrial Enforcement Engineer
Permits and Enforcement Section
WATER QUALITY CONTROL DIVISION

BEFORE THE DEPARTMENT OF HEALTH

DIVISION OF ADMINISTRATION

STATE OF COLORADO

AGREEMENT AND STIPULATED ORDER

IN THE MATTER OF: RICO DEVELOPMENT CORPORATION
 CDPS PERMIT NO. CO-0029793
 DOLORES COUNTY, COLORADO

The Water Quality Control Division of the Colorado Department of Health and Rico Development Corporation, hereby agree and state as follows:

1. The Water Quality Control Division ("the Division"), a section within the Colorado Department of Health ("the Department"), has primary responsibility pursuant to C.R.S. 25-8-301 through 308, to enforce the provisions of the Water Quality Control Act, C.R.S. 25-8-101 through 703.

2. Rico Development Corporation ("Rico") operates the Rico project, which is an inactive, underground metals mine ("the mine") in Rico, Colorado.

3. The mine is the subject of Colorado Discharge System Permit No. CO-0029733 ("the permit"), which was effective on June 13, 1988 and has been extended past its expiration date of December 31, 1992 pending permit renewal.

4. Under the terms and conditions of the permit, wastewater associated with the St. Louis tunnel is authorized to be discharged, following treatment, from outfall 002 into the Dolores River.

5. On May 18, 1990, the Division issued a Notice of Violation and Cease and Desist Order ("NOV") to Rico for violations of the effluent limitations in the permit. A copy of the NOV is attached hereto as Exhibit A and is incorporated herein by reference.

6. Pursuant to C.R.S. 25-8-603 (1989 Repl. Vol. 11A and 1992 Supp.) the recipient of a Notice of Violation may request the Division to conduct a hearing to determine the validity of the Notice. Such request must be filed in writing with the Division no later than 30 days after the issuance of the Notice. Absent such a request, the validity of the factual allegations and the Notice of Violation shall be deemed established in subsequent proceeding. Rico filed no such request.

7. In settlement of the NOV, the Division agrees to petition the Department's Executive Director, or her designee, to impose a \$15,000 penalty against Rico.

8. Rico agrees to pay the civil penalty within 30 days of its imposition.

9. Payment of the civil penalty shall be in full and complete settlement of the NOV.

10. This Agreement and Stipulation Order ("Agreement") shall become final and fully effective upon the Executive Director's, or her designee's, imposition of the \$15,000 penalty. If this penalty is not imposed, this Agreement is void.

11. Rico agrees that this Agreement has the same effect and force as a final Cease and Desist Order issued pursuant to C.R.S. 25-8-605. Rico further agrees that any violation of this Agreement may be subject to action pursuant C.R.S. 25-8-602 through 612.

WAYNE WEBSTER
Rico Development Corporation

J.DAVID HOLM
Director
Water Quality Control Division

Date

Date